

Assembly Bill No. 1748

Passed the Assembly August 24, 2016

Chief Clerk of the Assembly

Passed the Senate August 19, 2016

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2016, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Section 4119.8 to the Business and Professions Code, and to add Section 49414.3 to the Education Code, relating to pupils.

LEGISLATIVE COUNSEL'S DIGEST

AB 1748, Mayes. Pupils: pupil health: opioid antagonist.

(1) Existing law authorizes a pharmacy to furnish epinephrine auto-injectors to a school district, county office of education, or charter school if certain conditions are met. Existing law requires the school district, county office of education, or charter school to maintain records regarding the acquisition and disposition of epinephrine auto-injectors furnished by the pharmacy for a period of 3 years from the date the records were created.

This bill would authorize a pharmacy to furnish naloxone hydrochloride or another opioid antagonist to a school district, county office of education, or charter school if certain conditions are met. The bill would require the school district, county office of education, or charter school to maintain records regarding the acquisition and disposition of naloxone hydrochloride or another opioid antagonist furnished by the pharmacy for a period of 3 years from the date the records were created.

(2) Under existing law, the governing board of a school district is required to give diligent care to the health and physical development of pupils and may employ properly certified persons for that work. Existing law requires school districts, county offices of education, and charter schools to provide emergency epinephrine auto-injectors to school nurses or trained volunteer personnel and authorizes school nurses and trained personnel to use epinephrine auto-injectors to provide emergency medical aid to persons suffering, or reasonably believed to be suffering, from an anaphylactic reaction, as provided.

This bill would authorize a school district, county office of education, or charter school to provide emergency naloxone hydrochloride or another opioid antagonist to school nurses and trained personnel who have volunteered, as specified, and authorizes school nurses and trained personnel to use naloxone

hydrochloride or another opioid antagonist to provide emergency medical aid to persons suffering, or reasonably believed to be suffering, from an opioid overdose. The bill would expressly authorize each public and private elementary and secondary school in the state to voluntarily determine whether or not to make emergency naloxone hydrochloride or another opioid antagonist and trained personnel available at its school and to designate one or more school personnel to receive prescribed training regarding naloxone hydrochloride or another opioid antagonist from individuals in specified positions.

The bill would require the Superintendent of Public Instruction to establish minimum standards of training for the administration of naloxone hydrochloride or another opioid antagonist, to review these standards every 5 years or sooner as specified, and to consult with organizations and providers with expertise in administering naloxone hydrochloride or another opioid antagonist and administering medication in a school environment in developing and reviewing those standards. The bill would require the State Department of Education to include on its Internet Web site a clearinghouse for best practices in training nonmedical personnel to administer naloxone hydrochloride or another opioid antagonist to pupils.

The bill would require a school district, county office of education, or charter school choosing to exercise the authority to provide emergency naloxone hydrochloride or another opioid antagonist to provide the training for the volunteers at no cost to the volunteers and during the volunteers' regular working hours. The bill would require a qualified supervisor of health or administrator at a school district, county office of education, or charter school electing to utilize naloxone hydrochloride or another opioid antagonist for emergency medical aid to obtain the prescription for naloxone hydrochloride or another opioid antagonist from an authorizing physician and surgeon, as defined, and would authorize the prescription to be filled by local or mail order pharmacies or naloxone hydrochloride or another opioid antagonist manufacturers.

The bill would authorize school nurses or, if the school does not have a school nurse, a person who has received training regarding naloxone hydrochloride or another opioid antagonist to immediately administer naloxone hydrochloride or another opioid

antagonist under certain circumstances. The bill would provide that volunteers may administer naloxone hydrochloride or another opioid antagonist only by nasal spray or by auto-injector, as specified.

The bill would prohibit an authorizing physician and surgeon from being subject to professional review, being liable in a civil action, or being subject to criminal prosecution for any act in the issuing of a prescription or order, pursuant to these provisions, unless the act constitutes gross negligence or willful or malicious conduct. The bill would prohibit a person trained under these provisions who administers naloxone hydrochloride or another opioid antagonist, in good faith and not for compensation, to a person who appears to be experiencing an opioid overdose from being subject to professional review, being liable in a civil action, or being subject to criminal prosecution for this administration.

The people of the State of California do enact as follows:

SECTION 1. Section 4119.8 is added to the Business and Professions Code, to read:

4119.8. (a) Notwithstanding any other law, a pharmacy may furnish naloxone hydrochloride or another opioid antagonist to a school district, county office of education, or charter school pursuant to Section 49414.3 of the Education Code if all of the following are met:

(1) The naloxone hydrochloride or another opioid antagonist is furnished exclusively for use at a school district schoolsite, county office of education schoolsite, or charter school.

(2) A physician and surgeon provides a written order that specifies the quantity of naloxone hydrochloride or another opioid antagonist to be furnished.

(b) Records regarding the acquisition and disposition of naloxone hydrochloride or another opioid antagonist furnished pursuant to subdivision (a) shall be maintained by the school district, county office of education, or charter school for a period of three years from the date the records were created. The school district, county office of education, or charter school shall be responsible for monitoring the supply of naloxone hydrochloride or another opioid antagonist and ensuring the destruction of expired naloxone hydrochloride or another opioid antagonist.

SEC. 2. Section 49414.3 is added to the Education Code, to read:

49414.3. (a) School districts, county offices of education, and charter schools may provide emergency naloxone hydrochloride or another opioid antagonist to school nurses or trained personnel who have volunteered pursuant to subdivision (d), and school nurses or trained personnel may use naloxone hydrochloride or another opioid antagonist to provide emergency medical aid to persons suffering, or reasonably believed to be suffering, from an opioid overdose.

(b) For purposes of this section, the following terms have the following meanings:

(1) “Authorizing physician and surgeon” may include, but is not limited to, a physician and surgeon employed by, or contracting with, a local educational agency, a medical director of the local health department, or a local emergency medical services director.

(2) “Auto-injector” means a disposable delivery device designed for the automatic injection of a premeasured dose of an opioid antagonist into the human body and approved by the federal Food and Drug Administration for layperson use.

(3) “Opioid antagonist” means naloxone hydrochloride or another drug approved by the federal Food and Drug Administration that, when administered, negates or neutralizes in whole or in part the pharmacological effects of an opioid in the body, and has been approved for the treatment of an opioid overdose.

(4) “Qualified supervisor of health” may include, but is not limited to, a school nurse.

(5) “Volunteer” or “trained personnel” means an employee who has volunteered to administer naloxone hydrochloride or another opioid antagonist to a person if the person is suffering, or reasonably believed to be suffering, from an opioid overdose, has been designated by a school, and has received training pursuant to subdivision (d).

(c) Each public and private elementary and secondary school in the state may voluntarily determine whether or not to make emergency naloxone hydrochloride or another opioid antagonist and trained personnel available at its school. In making this determination, a school shall evaluate the emergency medical response time to the school and determine whether initiating

emergency medical services is an acceptable alternative to naloxone hydrochloride or another opioid antagonist and trained personnel. A private elementary or secondary school choosing to exercise the authority provided under this subdivision shall not receive state funds specifically for purposes of this subdivision.

(d) (1) Each public and private elementary and secondary school in the state may designate one or more volunteers to receive initial and annual refresher training, based on the standards developed pursuant to subdivision (e), regarding the storage and emergency use of naloxone hydrochloride or another opioid antagonist from the school nurse or other qualified person designated by an authorizing physician and surgeon. A benefit shall not be granted to or withheld from any individual based on his or her offer to volunteer, and there shall be no retaliation against any individual for rescinding his or her offer to volunteer, including after receiving training. Any school district, county office of education, or charter school choosing to exercise the authority provided under this subdivision shall provide the training for the volunteers at no cost to the volunteer and during the volunteer's regular working hours.

(2) An employee who volunteers pursuant to this section may rescind his or her offer to administer emergency naloxone hydrochloride or another opioid antagonist at any time, including after receipt of training.

(e) (1) The Superintendent shall establish minimum standards of training for the administration of naloxone hydrochloride or another opioid antagonist that satisfies the requirements of paragraph (2). Every five years, or sooner as deemed necessary by the Superintendent, the Superintendent shall review minimum standards of training for the administration of naloxone hydrochloride or other opioid antagonists that satisfy the requirements of paragraph (2). For purposes of this subdivision, the Superintendent shall consult with organizations and providers with expertise in administering naloxone hydrochloride or another opioid antagonist and administering medication in a school environment, including, but not limited to, the California Society of Addiction Medicine, the Emergency Medical Services Authority, the California School Nurses Organization, the California Medical Association, the American Academy of Pediatrics, and others.

(2) Training established pursuant to this subdivision shall include all of the following:

(A) Techniques for recognizing symptoms of an opioid overdose.

(B) Standards and procedures for the storage, restocking, and emergency use of naloxone hydrochloride or another opioid antagonist.

(C) Basic emergency followup procedures, including, but not limited to, a requirement for the school or charter school administrator or, if the administrator is not available, another school staff member to call the emergency 911 telephone number and to contact the pupil's parent or guardian.

(D) Recommendations on the necessity of instruction and certification in cardiopulmonary resuscitation.

(E) Written materials covering the information required under this subdivision.

(3) Training established pursuant to this subdivision shall be consistent with the most recent guidelines for medication administration issued by the department.

(4) A school shall retain for reference the written materials prepared under subparagraph (E) of paragraph (2).

(5) The department shall include on its Internet Web site a clearinghouse for best practices in training nonmedical personnel to administer naloxone hydrochloride or another opioid antagonist to pupils.

(f) Any school district, county office of education, or charter school electing to utilize naloxone hydrochloride or another opioid antagonist for emergency aid shall distribute a notice at least once per school year to all staff that contains the following information:

(1) A description of the volunteer request stating that the request is for volunteers to be trained to administer naloxone hydrochloride or another opioid antagonist to a person if the person is suffering, or reasonably believed to be suffering, from an opioid overdose.

(2) A description of the training that the volunteer will receive pursuant to subdivision (d).

(3) The right of an employee to rescind his or her offer to volunteer pursuant to this section.

(4) A statement that no benefit will be granted to or withheld from any individual based on his or her offer to volunteer and that there will be no retaliation against any individual for rescinding his or her offer to volunteer, including after receiving training.

(g) (1) A qualified supervisor of health at a school district, county office of education, or charter school electing to utilize naloxone hydrochloride or another opioid antagonist for emergency aid shall obtain from an authorizing physician and surgeon a prescription for each school for naloxone hydrochloride or another opioid antagonist. A qualified supervisor of health at a school district, county office of education, or charter school shall be responsible for stocking the naloxone hydrochloride or another opioid antagonist and restocking it if it is used.

(2) If a school district, county office of education, or charter school does not have a qualified supervisor of health, an administrator at the school district, county office of education, or charter school shall carry out the duties specified in paragraph (1).

(3) A prescription pursuant to this subdivision may be filled by local or mail order pharmacies or naloxone hydrochloride or another opioid antagonist manufacturers.

(4) An authorizing physician and surgeon shall not be subject to professional review, be liable in a civil action, or be subject to criminal prosecution for the issuance of a prescription or order pursuant to this section, unless the physician and surgeon's issuance of the prescription or order constitutes gross negligence or willful or malicious conduct.

(h) (1) A school nurse or, if the school does not have a school nurse or the school nurse is not onsite or available, a volunteer may administer naloxone hydrochloride or another opioid antagonist to a person exhibiting potentially life-threatening symptoms of an opioid overdose at school or a school activity when a physician is not immediately available. If the naloxone hydrochloride or another opioid antagonist is used it shall be restocked as soon as reasonably possible, but no later than two weeks after it is used. Naloxone hydrochloride or another opioid antagonist shall be restocked before its expiration date.

(2) Volunteers may administer naloxone hydrochloride or another opioid antagonist only by nasal spray or by auto-injector.

(3) A volunteer shall be allowed to administer naloxone hydrochloride or another opioid antagonist in a form listed in paragraph (2) that the volunteer is most comfortable with.

(i) A school district, county office of education, or charter school electing to utilize naloxone hydrochloride or another opioid antagonist for emergency aid shall ensure that each employee who

volunteers under this section will be provided defense and indemnification by the school district, county office of education, or charter school for any and all civil liability, in accordance with, but not limited to, that provided in Division 3.6 (commencing with Section 810) of Title 1 of the Government Code. This information shall be reduced to writing, provided to the volunteer, and retained in the volunteer's personnel file.

(j) (1) Notwithstanding any other law, a person trained as required under subdivision (d), who administers naloxone hydrochloride or another opioid antagonist, in good faith and not for compensation, to a person who appears to be experiencing an opioid overdose shall not be subject to professional review, be liable in a civil action, or be subject to criminal prosecution for his or her acts or omissions in administering the naloxone hydrochloride or another opioid antagonist.

(2) The protection specified in paragraph (1) shall not apply in a case of gross negligence or willful and wanton misconduct of the person who renders emergency care treatment by the use of naloxone hydrochloride or another opioid antagonist.

(3) Any public employee who volunteers to administer naloxone hydrochloride or another opioid antagonist pursuant to subdivision (d) is not providing emergency medical care "for compensation," notwithstanding the fact that he or she is a paid public employee.

(k) A state agency, the department, or a public school may accept gifts, grants, and donations from any source for the support of the public school carrying out the provisions of this section, including, but not limited to, the acceptance of naloxone hydrochloride or another opioid antagonist from a manufacturer or wholesaler.

Approved _____, 2016

Governor